

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ JAN 13 2010  
P.M. 9  
TIME A.M. 9

\_\_\_\_\_  
EFRAIN LIZAIDE,

Petitioner,

-against-

ROBERT KIRKPATRICK,

Respondent.  
\_\_\_\_\_

**CIVIL  
JUDGMENT**

**09-CV-5038 (CBA)**

Pursuant to the Court's Memorandum and Order issued on January 11, 2010  
dismissing the petition for a writ of habeas corpus under 28 U.S.C. § 2254, it is,

**ORDERED, ADJUDGED AND DECREED:** That the petition is hereby dismissed as time-barred. 28 U.S.C. § 2244(d). As petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253(c). The Court certifies pursuant to 28 U.S.C. § 1915(a) that any appeal from the Memorandum and Order would not be taken in good faith and therefore *in forma pauperis* is denied for the purpose of any appeal.

Dated: January 11, 2010  
Brooklyn, New York

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Carol Bagley Amon  
United States District Judge